

### **REMARKS/ARGUMENTS**

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 27 and 37-41 are pending and Claims 27 and 37-41 are amended. It is respectfully submitted that no new matter is added by this amendment, as support for the amendments may be found at least in Figure 12.

### **SUMMARY OF THE OFFICE ACTION**

In the outstanding Office Action, Claims 27 and 39 were rejected under 35 U.S.C. § 101; Claims 27 and 37-41 were rejected under 35 U.S.C. § 102(e) as anticipated by Ando et al. (U.S. 20010014201, hereafter Ando); Claims 27 and 37-41 were rejected under 35 U.S.C. § 102(b) as anticipated by Hiroshima et al. (U.S. Pat. No. 5,801,781, hereafter Hiroshima); Claims 27 and 37-41 were rejected under 35 U.S.C. § 102(e) as anticipated by Kim et al. (U.S. Pat. No. 6,740,135, hereafter Kim); and Claims 42 and 43 were rejected under 35 U.S.C. § 103(a) as unpatentable over Miwa in view of Yanagihara et al. (U.S. Pat. No. 6,211,800, hereafter Yanagihara).<sup>1</sup>

### **REJECTIONS - 35 U.S.C. § 101**

With regard to the rejection of Claims 27 and 39 under 35 U.S.C. § 101, this rejection is respectfully traversed. Claims 27 and 39 have been amended to recite that the management information is used to access the bitstream information to reproduce at least one data unit with the reproducing apparatus.

Applicants respectfully submit that this amendment sufficiently clarifies the functional relationship between the management information, the bitstream information, and

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<sup>1</sup> Applicants note that Claims 42 and 43 were not pending in this application at the time of the last Office Action. As the Office Action presents this rejection with regard to Claims 27 and 37-41, Applicants address this rejection relative to Claims 27 and 37-41.

a playback device. Applicants further note that this language is based on language proposed by Examiner Nguyen to overcome a rejection under 35 U.S.C. § 101 during a personal interview for Applicants' U.S. Patent Application No. 10/076,285. Accordingly, amended Claims 27 and 39 are directed to statutory subject matter, and Applicants respectfully request reconsideration and withdrawal of the rejection of these claims under 35 U.S.C. § 101.

If the rejection under 35 U.S.C. § 101 is to be maintained, Applicants respectfully request that the Examiner provide an explanation of the rejection in view of the guidelines of MPEP § 2106, which requires, "Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application."

#### **REJECTIONS - 35 U.S.C. § 102**

With regard to the outstanding rejection of Claims 27 and 37-41 under 35 U.S.C. § 102(e) as anticipated by Ando, that rejection is respectfully traversed.

Claim 27 recites in part, said second data unit includes header information, said header information includes time-related information, and the header information including said time-related information is configured to be recorded in the data area which is different from the management area. Claims 37-41, which relate to recording methods, reproducing methods, and an information medium, recite analogous features.

As illustrated, for example, in Figure 12 of the present application, sector data header 12 (the application header) includes a first access point 651. This first access point includes a time stamped position of first application packet (FIRST\_AP\_OFFSET). This header information is recorded in a data area, which is different from the management area.

In Ando, Figure 24 illustrates a sector data header 12. Figure 25 of Ando shows that sector data header 12 has a first access point 651 and a transport packet connection flag 652. Figure 40 of Ando illustrates the contents of the application header. However, Figure 40

does not disclose or suggest that the application header includes a time stamp position of the first application packet (FIRST\_AP\_OFFSET). Thus, Ando necessarily fails to disclose or suggest that the header information includes time-related information of the first data unit, and that header information including said time-related information is configured to be recorded in the data area, which is different from the management area.

Accordingly, as Ando fails to disclose or suggest the features recited in Claims 27 and 37-41, it is respectfully submitted that Claims 27 and 37-41 patentably distinguish over Ando. It is therefore respectfully requested that this rejection be withdrawn.

With regard to the rejection of Claims 27 and 37-41 under 35 U.S.C. § 102(b) as anticipated by Hiroshima, that rejection is also traversed.

As noted above, amended Claims 27 and 37-41 recite that said second data unit includes header information, said header information includes time-related information, and the header information including said time-related information is configured to be recorded in the data area which is different from the management area.

Hiroshima is directed to converting moving picture streams of MPEG1 to MPEG2. To this end, Hiroshima describes that the MPEG1 system stream is sent through demultiplexer 30 and PES packetizer 32 before multiplexer 34. However, Hiroshima does not describe that the PES header or the MPEG2-TS header 194 of the PES packet 82 is stored in a data area that is different from the management area.

Accordingly, as Hiroshima fails to disclose or suggest the header information of Claims 27 and 37-41, it is respectfully submitted that these claims patentably distinguish over Hiroshima, and it is respectfully requested that this rejection be withdrawn.

With regard to the rejection of Claims 27 and 37-41 under 35 U.S.C. § 102(e) as anticipated by Kim, that rejection is also respectfully traversed. As noted above, Claims 27 and 37-41 recite that a second data unit includes header information, said header information

includes time-related information, and the header information including said time-related information is configured to be recorded in the data area which is different from the management area.

Kim relates to a method and apparatus for recording digital data streams. Kim describes that the transport stream packets constituting the data stream are recorded on the recording medium 230 along with respective transport stream packet arrival times, wherein the transport stream packets with packet arrival times are organized in sectors on the recording medium 230.<sup>2</sup> Kim then describes that if a user enters a search time in order to search for a specific position on the recording medium 230, the control unit 250 of the streamer 200 looks for a record or program corresponding to the user's search time, with reference to the creation times of records or programs.<sup>3</sup> However, Kim does not disclose or suggest that a header includes time related information configured to be recorded in a data area that is different from a management area.

Therefore, as Kim fails to disclose or suggest the features of Claims 27 and 37-41, it is respectfully requested that this rejection be withdrawn.

#### **REJECTIONS - 35 U.S.C. § 103**

With regard to the rejection of Claims 27 and 37-41 under 35 U.S.C. § 103 as unpatentable over Miwa in view of Yanagihara, this rejection is also respectfully traversed.

Miwa relates to a computer readable storage medium storing a recording program. As shown in Figure 7D of Miwa, the packet heading includes a PACKET\_START\_CODE\_PREFIX that is the first code in a packet, a STREAM\_ID that is set at the fixed value for a private stream, and a PTS that shows what time the audio frame data should be outputted.<sup>4</sup> The pack header is found in the first V\_PCK in each VOB, as well as in other V\_PCKs. The structure of the pack sequence in Miwa is illustrated in

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<sup>2</sup> Kim, col. 3, lines 24-29.

<sup>3</sup> Id. at col. 4, lines 13-18.

<sup>4</sup> Miwa, col. 11, lines 49-54.

Figures 6A-6C. While the header information of Miwa may arguably include time-related information, this time-related information is not information of the first data unit, where the first data unit is defined as a data packet of transport packets or application packets, as recited in independent Claims 27 and 37-41. Thus, it is respectfully submitted that Claims 27 and 37-41 patentably distinguish over Miwa.

Yanagihara relates to a data decoding system and method. Figure 11 of Yanagihara shows an example of a pack format. According to Yanagihara, a 14-byte pack header is provided at the head of the pack and followed by a packet header, which is followed by a region of one of video information, audio information, and sub-picture information.<sup>5</sup> However, Yanagihara does not disclose or suggest that the header contains any type of time-related information. Therefore, as Yanagihara fails to disclose or suggest the limitations of Claims 27 and 37-41, it is respectfully submitted that these claims patentably distinguish over Yanagihara.

As neither Miwa nor Yanagihara, either alone or in combination, discloses or suggests the features recited in Claims 27 and 37-41, it is respectfully submitted that Claims 27 and 37-41 patentably distinguish over the applied combination of Miwa and Yanagihara. It is respectfully requested that this rejection be withdrawn.

Moreover, it is respectfully submitted that there is no basis in the teachings of either Miwa or Yanagihara to support the applied combination. Certainly, the Office Action fails to cite to any specific teachings within either of these two references to support the applied combination. Therefore, it is respectfully submitted that the combination of Miwa and Yanagihara is based upon hindsight reconstruction, and is improper.

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<sup>5</sup> Yanagihara, col. 9, lines 12-16.

**CONCLUSION**

Consequently, in view of the foregoing discussion and present amendment, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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